



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : David M. Baggett
Serial No. : 09/877,159
Filed : June 8, 2001
Title : TECHNIQUE FOR PRODUCING CONSTRUCTED FARES

Art Unit : 3629
Examiner : Mooneyham, Janice A.
Conf. No. : 1014

Mail Stop Appeal Brief – Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO ACTION OF JUNE 26, 2006 AND INTERVIEW SUMMARY

The undersigned and the examiner had a telephonic interview on July 24, 2006 and discussed the examiner's contention regarding the Summary of the Claimed Subject Matter. Appellant disagreed with the examiner's contentions and no agreement was reached.

In reply Appellant submits the following:

The examiner argued that the Summary of the Claimed Subject Matter section did not comply with CFR 41.37, for the following reasons:

In the appeal brief, under Summary of Claimed Subject Matter, the applicant provides a background discussion and a discussion of the benefits/advantages of the applicant's invention. The rules under 37 CFR 41.37 changed the section Summary of the Invention to Summary of the Claimed Invention. This section requires the applicant to provide a concise explanation of the subject matter defined in each of the independent claims with a reference to the specification by page and line number and to the drawing, if any, by reference character.

Claim 1 is directed to a method. The applicant has identified claim 1 as having a fare construction process 40 which resides on computer system 10 or may reside on a server, not shown in a conventional manner, such as a client-server. The only structure recited in claim 1 is in the preamble wherein the applicant identifies that the method is executed in a computer system having memory and persistent storage device and in the body of the claim wherein the applicant claims searching a database and storing in a memory or persistent storage.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

July 25, 2006

Signature

Marie Collins

Typed or Printed Name of Person Signing Certificate

Marie Collins

There is no fare construction process 40 claimed in claim 1. Claim 1 does not claim that the fare construction process 40 resides on the computer system 10 or the server.

Applicant identifies a first hash table 37a in claim 1. There is no hash table claimed in claim 1. The applicant further identifies claim 1 as claiming the hash table returning in constant time, the list of gateway cities. The hash table is not in independent claim 1, but in dependent claims 2, 4, and 5. The constant time is in dependent claims 3 and 6.

The majority of what is disclosed on page 4 of the appeal brief is not subject matter that the applicant has defined in independent claim 1.

As for independent claims 14, 22, 35, and 43, the applicant has also identified subject matter that is not in the independent claims. Some of the limitations are found in the dependent claims or the applicant has imported disclosure from the specification that applicant has not claimed. The applicant is requested to provide a summary of the claimed subject matter only. ...

Applicant has deleted the brief background discussion and discussion of the benefits/advantages of appellant's invention from the Summary of the Claimed Subject Matter and has incorporated that material into the discussion. Applicant has also deleted references to hash tables and returning lists in constant time. Appellant does not interpret 37 C.F.R. 41.37(c), as requiring the Summary of the Claimed Subject Matter section in a form as the examiner contends, but in order to advance prosecution of this application, this Brief is revised according to the examiner's contention.

However, in the Notice, the examiner also indicated that the Brief filed by Appellant was non-compliant because Appellant had argued certain dependent claims, but did not include the dependent claims in the Summary of Claimed Subject Matter section of the Brief. Specifically, the examiner stated:

For any dependent claim argued separately, the applicant must identify the dependent claim and the set forth reference to the specification, or drawings, of each dependent claim that applicant is arguing separately.

Appellant contends that pursuant to 37 C.F.R. § 41.37 (c)(1) (v), reproduced below, that the brief was proper. 37 C.F.R. § 41.37 (c)(1) (v) states:

(v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by

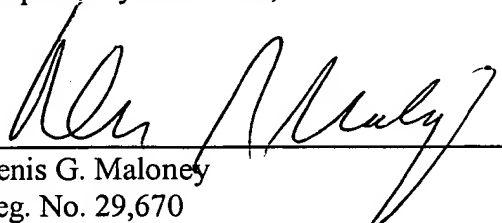
page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Under 37 C.F.R. § 41.37 (c)(1) (v), a brief must include "a concise explanation of the subject matter defined in each of the independent claims involved in the appeal." 37 C.F.R. § 41.37 (c)(1) (v), further requires that "... each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified Since Appellant's claims do not include any means plus function or step plus function claims, the Summary of claimed subject section of Appellant's brief should not include a concise explanation for the separately argued dependent claims.

No fee is due. If a fee is due please apply that fee and any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 7/25/06



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